IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 30TH OCTOBER 2007 / 8TH KARTHIKA 1929

WP(C).No. 22970 of 2007(H)

PETITIONERS:
----

1. **CHARLES. P., S/O PONNAN, RESIDING AT PALLIVADAKKATHIL VEEDU, PADINJATTA KIZHAKKU, SOORANADU, KOLLAM - 690522.**

2. **B.PHILIP, S/O BENNY, RESIDING AT PLAMTHUNDIL VEEDU, PADINJATTA KIZHAKKU, SOORANADU, KOLLAM - 690522.**

3. **K.P.ANILKUMAR, S/O PARAMESWARAN PILLAI, KAVIL VEEDU, THURUTHIKKARA POST, KUNNATHOOR, KOLLAM - 690540.**

BY ADV. SRI.K.JAYAKUMAR,
ADV. SRI.P.B.KRISHNAN.

RESPONDENT:

MAHARASHTRA APEX CORPORATION LTD., SYNDICATE HOUSE, MANIPAL, DAKSHINA KANNADA DISTRICT, KARNATAKA STATE, REP. BY ITS POWER OF ATTORNEY HOLDER MR.P.BHARGAVAN, S/O PARAMU, S.N.SADANAM, MUKKOODU POST, MULAVANA, KUNDARA, KOLLAM-691503.

BY ADV. SRI.P.SHRIHARI,
ADV. SMT.P.VANI.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/10/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.22970/2007:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE ARBITRATION PROCEEDINGS NO. 196/2001 DTD. 02/07/2001.

EXT.P.2: COPY OF THE AWARD IN ARBITRATION PROCEEDINGS NO. 196/2001 DTD. 28/03/2002.

EXT.P.3: COPY OF THE PETITION TO SET ASIDE THE EXPARTE AWARD FILED BY PETITIONER NO.3 BEFORE R.3 DTD. 07/10/2003.

EXT.P.4: COPY OF THE WRITTEN STATEMENT FILED IN A.P. 196/2001 BEFORE R.3. DTD. NIL.

EXT.P.5: COPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN W.P.(C). NO. 32996/2003 DTD. 16/02/2004.

EXT.P.6: COPY OF THE ORDER OF THE MUNSIFF-MAGISTRATE, SASTHAMCOTTA IN E.P.3/2003 IN A.P. NO. 196/2001 DTD, 18/05/2004.

EXT.P.7: COPY OF THE OBJECTION PETITION FILED BY THE PETITIONER IN E.P. NO. 4/2005 IN A.P. 196/2001 DTD. NIL.

EXT.P.8: COPY OF THE ATTACHMENT ORDER IN E.P. NO. 4/2005, DISTRICT COURT, KOLLAM DTD. 06/11/2006.

EXT.P.9: COPY OF THE ORDER IN E.A. NO. 126/2006 IN E.P. 4/2005 IN A.P. NO. 196/2001 DISTRICT COURT, KOLLAM DTD. 31/01/2007.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

M.N. KRISHNAN, J.

= = = = = = = = = = = = = = =

W.P.C. NO. 22970 OF 2007

= = = = = = = = = = = = = = =

Dated this the 30 th day of October, 2007.

J U D G M E N T

This writ petition is filed seeking to issue a direction to the District Judge, Kollam not to proceed with the execution proceedings in E.P.4/05 and also to quash Ext.P9. In this Court the writ petitioners have moved an application I.A.14220/07 whereby they seek permission to pay Rs.40,000/- in full and final satisfaction of the decree amount. A perusal of the records received would show that to start with a compromise was arrived whereby the writ petitioner compromised to pay Rs.40,000/- within a period of one month. The said request was allowed by the Court by Ext.P11 order on 22.8.07. Therefore, the present writ petitioner instead of complying with the directions in the compromise petition moved an application for instalment facility which the Court did not entertain. That is why the matter has come up before this Court now.

2. Now, a petition is filed before this Court whereby the writ petitioner is expressing his willingness to pay the entire amount of Rs.40,000/- which was agreed upon as per the terms of the compromise. It is true that the time limit is over but since the writ petitioner wants to clear of the liability as agreed by him in the compromise, I feel an opportunity can be given to him and for that purpose I set aside the orders passed earlier by the Court and direct the writ petitioner to move an application expressing his intention to pay off the entire liability of Rs.40,000/- and the Court after hearing the decree holder pass an order recording full satisfaction of the decree and close the execution petition. I grant the petitioners two weeks time to file such an application and till a final decision is taken, further proceedings in the E.P. be kept in abeyance.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

ul/-